

103^D CONGRESS
2^D SESSION

S. 783

AN ACT

To amend the Fair Credit Reporting Act, and for
other purposes.

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To amend the Fair Credit Reporting Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Consumer Reporting Reform Act of 1994”.

1 (b) TABLE OF CONTENTS.—The following is a table
2 of contents for this Act:

Sec. 1. Short title; table of contents.

TITLE I—AMENDMENTS TO THE FAIR CREDIT REPORTING ACT

- Sec. 101. Definitions.
- Sec. 102. Furnishing and using reports; use of information obtained from reports.
- Sec. 103. Amendments relating to prescreening of consumer reports.
- Sec. 104. Amendments relating to obsolete information and information contained in consumer reports.
- Sec. 105. Amendments relating to compliance procedures.
- Sec. 106. Amendments relating to consumer disclosures.
- Sec. 107. Amendments relating to procedures in case of the disputed accuracy of any information in a consumer's file.
- Sec. 108. Amendment relating to charges for disclosure.
- Sec. 109. Amendments relating to duties of users of consumer reports.
- Sec. 110. Amendments relating to civil liability.
- Sec. 111. Amendments relating to responsibilities of persons who furnish information to consumer reporting agencies.
- Sec. 112. State action to enforce Act.
- Sec. 113. Administrative enforcement.
- Sec. 114. Establishment of toll-free telephone number.
- Sec. 115. Action by FTC.
- Sec. 116. Relation to State laws.
- Sec. 117. Fair debt collection practices.
- Sec. 118. Effective dates.

TITLE II—CREDIT REPAIR ORGANIZATIONS

- Sec. 201. Regulation of credit repair organizations.
- Sec. 202. Credit worthiness.

TITLE III—FINANCIAL ACCOUNTING STANDARDS BOARD

- Sec. 301. Findings.
- Sec. 302. New accounting treatment of employee stock options and purchase plans.
- Sec. 303. Status.

TITLE IV—MISCELLANEOUS PROVISION

- Sec. 401. Securities and Exchange Commission, Seattle district office.

1 **TITLE I—AMENDMENTS TO THE**
2 **FAIR CREDIT REPORTING ACT**

3 **SEC. 101. DEFINITIONS.**

4 (a) ADVERSE ACTION.—Section 603 of the Fair
5 Credit Reporting Act (15 U.S.C. 1681a) is amended by
6 adding at the end the following new subsection:

7 “(k) The term ‘adverse action’, when used in connec-
8 tion with an action based in whole or in part on informa-
9 tion contained in a consumer report, means an action that
10 is adverse or less favorable to the interest of the consumer
11 who is the subject of the report. Without limiting the gen-
12 eral applicability of the foregoing, the following constitute
13 adverse actions:

14 “(1) CREDIT.—

15 “(A) ACTIONS INCLUDED.—A denial or
16 revocation of credit, an increase in the charge
17 for credit, an adverse change in the terms of an
18 existing credit arrangement, or a refusal to
19 grant credit in substantially the amount or on
20 substantially the terms requested.

21 “(B) ACTIONS NOT INCLUDED.—For the
22 purposes of this paragraph, the term ‘adverse
23 action’ does not include—

24 “(i) an attempt to collect a debt owed
25 or allegedly owed;

1 “(ii) an action taken with respect to a
2 credit or insurance transaction that is not
3 initiated by the consumer if—

4 “(I) no change is made with re-
5 spect to the interests of the consumer;
6 or

7 “(II) a change is made that is
8 not unfavorable to the interests of the
9 consumer; and

10 “(iii) an action taken with respect to
11 the review of an account under section
12 604(a)(3)(A), if—

13 “(I) no change is made with re-
14 spect to the interests of the consumer;
15 or

16 “(II) a change is made that is
17 not unfavorable to the interests of the
18 consumer.

19 “(2) EMPLOYMENT.—A denial of employment
20 or other adverse or less favorable decision relating to
21 employment.

22 “(3) INSURANCE.—A denial or cancellation of,
23 an increase in any charge for, or reduction or other
24 adverse or unfavorable change in the terms of cov-
25 erage or amount of, any insurance, existing or ap-

1 plied for, in connection with the underwriting of in-
2 surance.

3 “(4) LICENSE OR BENEFIT.—A denial or can-
4 cellation of, or an increase in any charge for, or any
5 other adverse or unfavorable change in the terms of,
6 any license or benefit described in section
7 604(a)(3)(D).

8 “(5) CONSUMER INITIATED BUSINESS TRANS-
9 ACTION.—A denial or cancellation of, or any other
10 adverse or unfavorable change in the terms of, any
11 business transaction that the consumer has initiated
12 or sought to initiate.”.

13 (b) DEFINITION OF CONSUMER REPORT.—Section
14 603(d) of the Fair Credit Reporting Act (15 U.S.C.
15 1681a(d)) is amended in the second sentence—

16 (1) in subparagraph (A)—

17 (A) by inserting “(i)” after “(A)”; and

18 (B) by inserting before the semicolon at
19 the end the following: “; (ii) any communication
20 of that information among persons related by
21 common ownership or affiliated by corporate
22 control; or (iii) any communication of informa-
23 tion from a credit application by a consumer
24 among persons related by common ownership or
25 affiliated by common corporate control, if (I) it

1 is clearly and conspicuously disclosed to the
2 consumer with the credit application that the
3 information may be communicated among such
4 persons; and (II) the consumer is provided with
5 the option to prohibit such communication (in
6 writing, using a signature line that is separate
7 and distinct from that used for the consumer's
8 consent to the extension of credit) and does not
9 exercise such option”;

10 (2) in subparagraph (B), by striking “or” after
11 the semicolon at the end; and

12 (3) in subparagraph (C), by striking the period
13 at the end and inserting the following: “; or (D) any
14 communication of information about a consumer be-
15 tween persons who are affiliated by common owner-
16 ship or common corporate control and in connection
17 with a credit or insurance transaction that is not ini-
18 tiated by the consumer, if either person has complied
19 with section 615(d)(2)(B) with respect to a
20 consumer report from which the information is
21 taken and the consumer has consented to use of the
22 report for the transaction in accordance with section
23 615(d)(2)(C).”.

24 (c) FIRM OFFER.—Section 603 of the Fair Credit
25 Reporting Act (15 U.S.C. 1681a), as amended by sub-

1 section (a), is amended by adding at the end the following
2 new subsection:

3 “(l) The term ‘firm offer’ means an offer of credit
4 or insurance to a consumer that will be honored by the
5 offeror if—

6 “(1) based on information in the consumer re-
7 port on the consumer or other information bearing
8 on the creditworthiness of the consumer, the
9 consumer is determined to meet the criteria used to
10 select consumers for the offer; and

11 “(2) the information provided by the consumer
12 in the application in response to the offer—

13 “(A) is not determined to be incorrect or
14 inadequate; and

15 “(B) meets the criteria established by the
16 offeror in advance of the offer for such exten-
17 sion of credit or insurance.”.

18 (d) CREDIT OR INSURANCE TRANSACTION THAT IS
19 NOT INITIATED BY THE CONSUMER.—Section 603 of the
20 Fair Credit Reporting Act (15 U.S.C. 1681a), as amended
21 by subsection (c), is amended by adding at the end the
22 following new subsection:

23 “(m) The term ‘credit or insurance transaction that
24 is not initiated by the consumer’ does not include the use

1 of a consumer report by a person with whom the consumer
2 has an account, for purposes of—

3 “(1) reviewing the account; or

4 “(2) collecting the account.”.

5 (e) EXCLUSION OF CERTAIN COMMUNICATIONS BY
6 EMPLOYMENT AGENCIES FROM DEFINITION OF
7 CONSUMER REPORT.—Section 603 of the Fair Credit Re-
8 porting Act (15 U.S.C. 1681(a)), as amended by sub-
9 sections (a) through (d), is amended—

10 (1) in subsection (d), by adding at the end the
11 following new sentence: “The term also does not in-
12 clude a communication described in subsection (n).”;
13 and

14 (2) by adding at the end the following:

15 “(n) COMMUNICATIONS BY EMPLOYMENT AGENCIES
16 EXCLUDED FROM DEFINITION OF CONSUMER REPORT.—
17 For purposes of subsection (d), a communication is de-
18 scribed in this subsection if it is a communication—

19 “(1) that, but for the third sentence of sub-
20 section (d), would be an investigative consumer re-
21 port;

22 “(2) that is made to a prospective employer for
23 the purpose of—

24 “(A) procuring an employee for the em-
25 ployer; or

1 “(B) procuring an opportunity for a natu-
2 ral person to work for the employer;

3 “(3) that is made by a person that regularly
4 performs such procurement;

5 “(4) that is not used by any person for any
6 purpose other than a purpose described in subpara-
7 graph (A) or (B) of paragraph (2);

8 “(5) with respect to which—

9 “(A) the consumer who is the subject of
10 the communication—

11 “(i) consents orally or in writing to
12 the nature and scope of the communica-
13 tion, before the collection of any informa-
14 tion for the purpose of making the commu-
15 nication;

16 “(ii) consents orally or in writing to
17 the making of the communication to a pro-
18 spective employer, before the making of the
19 communication; and

20 “(iii) in the case of consent under
21 clause (i) or (ii) given orally, is provided
22 written confirmation of that consent by the
23 person making the communication, not
24 later than 3 business days after the receipt
25 of the consent by that person;

1 “(B) the person making the communica-
2 tion does not, for the purpose of making the
3 communication, make any inquiry that if made
4 by a prospective employer of the consumer who
5 is the subject of the communication would vio-
6 late any applicable Federal or State equal em-
7 ployment opportunity law or regulation; and

8 “(C) the person making the communica-
9 tion—

10 “(i) discloses in writing to the
11 consumer who is the subject of the commu-
12 nication, not later than 5 business days
13 after receiving any request from the
14 consumer for such disclosure, the nature
15 and substance of all information in the
16 consumer’s file at the time of the request,
17 except that the sources of information that
18 is acquired solely for use in making the
19 communication and actually used for no
20 other purpose need not be disclosed other
21 than under appropriate discovery proce-
22 dures in the court in which an action is
23 brought; and

24 “(ii) notifies the consumer who is the
25 subject of the communication, in writing,

1 of the consumer's right to request the in-
2 formation described in clause (i).”.

3 **SEC. 102. FURNISHING AND USING REPORTS; USE OF IN-**
4 **FORMATION OBTAINED FROM REPORTS.**

5 (a) USE OF REPORTS FOR EMPLOYMENT AND BUSI-
6 NESS PURPOSES.—Section 604 of the Fair Credit Report-
7 ing Act (15 U.S.C. 1681b) is amended—

8 (1) by striking “A consumer reporting agency
9 may furnish” and inserting the following:

10 “(a) IN GENERAL.—A consumer reporting agency
11 may furnish”;

12 (2) in subsection (a)(3)(A) (as designated by
13 paragraph (1)), by striking “and involving the” and
14 all that follows through the semicolon and inserting
15 “or involving the extension of credit to, or review or
16 collection of a credit or other account of, the
17 consumer;”;

18 (3) in subsection (a)(3) (as designated by para-
19 graph (1)), by striking subparagraph (E) and insert-
20 ing the following:

21 “(E) otherwise has a legitimate business
22 need for the information in connection with a
23 business transaction that—

24 “(i) is initiated by the consumer; or

1 “(ii) is a direct marketing transaction
2 for which the furnishing of a consumer re-
3 port by the agency is not prohibited under
4 subsection (e).”; and

5 (4) by adding at the end the following new sub-
6 section:

7 “(b) CONDITIONS FOR FURNISHING AND USING
8 CONSUMER REPORTS FOR EMPLOYMENT PURPOSES.—

9 “(1) CERTIFICATION FROM USER.—A consumer
10 reporting agency may furnish a consumer report for
11 employment purposes only—

12 “(A) if the person who obtains such report
13 from the agency certifies to the agency that—

14 “(i) the disclosure required under
15 paragraph (2) has been made and, if nec-
16 essary, the disclosure required under para-
17 graph (3), shall be made; and

18 “(ii) information from the consumer
19 report will not be used in violation of any
20 applicable Federal or State equal employ-
21 ment opportunity law or regulation; and

22 “(B) if the consumer reporting agency pro-
23 vides with the report a summary of the consum-
24 er’s rights under this title, as prescribed in ac-
25 cordance with section 609(c)(3).

1 “(2) DISCLOSURES TO PROSPECTIVE AND CUR-
2 RENT EMPLOYEES.—

3 “(A) IN GENERAL.—Except as provided in
4 subparagraph (B), a person may not procure a
5 consumer report, or cause a consumer report to
6 be procured, for employment purposes with re-
7 spect to a prospective or current employee un-
8 less—

9 “(i) the prospective or current em-
10 ployee has received, before the report is
11 procured, a clear and conspicuous disclo-
12 sure made in writing that consumer re-
13 ports may be used for employment pur-
14 poses; and

15 “(ii) the prospective or current em-
16 ployee has provided a general or specific
17 written authorization for the procurement
18 of the report prior to such procurement.

19 “(B) WRITTEN MATERIAL CONSTITUTING
20 NOTICE.—A written statement that consumer
21 reports may be used for employment purposes
22 which is contained in employee guidelines or
23 manuals available to employees and prospective
24 employees or included in written materials pro-
25 vided to employees or prospective employees

1 shall constitute a written disclosure for pur-
2 poses of subparagraph (A).

3 “(3) CONDITIONS ON USE FOR ADVERSE AC-
4 TIONS.—Before taking an adverse action based on a
5 consumer report used for employment purposes, a
6 person shall provide to the consumer to whom the
7 report relates—

8 “(A) a copy of the report;

9 “(B) a description of the consumer’s rights
10 under this title, as prescribed in accordance
11 with section 609(c)(3); and

12 “(C) a reasonable opportunity (not more
13 than 5 business days following the receipt of
14 the report by the consumer) to respond to any
15 information in the report that is disputed by
16 the consumer, except that if the person has a
17 reasonable belief that the consumer has en-
18 gaged in fraudulent or criminal activity, no
19 such opportunity to respond shall be required.”.

20 (b) USE OF INFORMATION OBTAINED FROM RE-
21 PORTS.—Section 604 of the Fair Credit Reporting Act (15
22 U.S.C. 1681b), as amended by subsection (a), is amended
23 by adding at the end the following new subsection:

1 “(c) CERTAIN USE OR OBTAINING OF INFORMATION
2 PROHIBITED.—A person shall not use or obtain informa-
3 tion from a consumer report for any purpose unless—

4 “(1) it is obtained for a purpose for which the
5 consumer report is authorized to be furnished under
6 subsection (a); and

7 “(2) the purpose is certified in accordance with
8 section 607 by a prospective user of the report.”.

9 (c) DISCLOSURE OF CONSUMER REPORTS BY
10 USERS.—Section 607 of the Fair Credit Reporting Act
11 (15 U.S.C. 1681e) is amended by adding at the end the
12 following new subsection:

13 “(c) DISCLOSURE OF CONSUMER REPORTS BY
14 USERS ALLOWED.—A consumer reporting agency may not
15 prohibit a user of a consumer report furnished by the
16 agency on a consumer from disclosing the contents of the
17 report to the consumer if adverse action against the
18 consumer has been taken or is contemplated by the user
19 of the consumer report, based in whole or in part on the
20 report.”.

21 (d) USE OF REPORTS TO ESTABLISH AND ENFORCE
22 CHILD SUPPORT ORDERS.—Section 604(a) of the Fair
23 Credit Reporting Act (15 U.S.C. 1681b), as amended by
24 subsections (a) and (b), is amended by adding at the end
25 the following new paragraph:

1 “(4) In response to a request from the head of the
2 agency, department, or office (or an official authorized by
3 the head of that agency, department, or office) that is re-
4 sponsible under law for obtaining child support orders, in
5 order to establish an individual’s obligation to make child
6 support payments or to determine the appropriate level of
7 such payments. Any consumer report obtained pursuant
8 to this paragraph shall be kept confidential (other than
9 for its use in connection with a public hearing related to
10 child support) and shall not be used in connection with
11 any other civil, administrative, or criminal proceeding.”.

12 **SEC. 103. AMENDMENTS RELATING TO PRESCREENING OF**
13 **CONSUMER REPORTS.**

14 (a) IN GENERAL.—Section 604 of the Fair Credit
15 Reporting Act (15 U.S.C. 1681b), as amended by section
16 102, is amended—

17 (1) in subsection (a), by striking “A consumer
18 reporting agency” and inserting “Subject to sub-
19 section (d), a consumer reporting agency”; and

20 (2) by adding at the end the following new sub-
21 section:

22 “(d) LIMITATIONS ON REPORTS RELATING TO CRED-
23 IT OR INSURANCE TRANSACTIONS NOT INITIATED BY THE
24 CONSUMER.—

1 “(1) IN GENERAL.—A consumer reporting
2 agency may furnish a consumer report relating to a
3 consumer pursuant to subsection (a)(3)(A) to any
4 person referred to in such subsection in connection
5 with any credit or insurance transaction that is not
6 initiated by the consumer only if—

7 “(A) the consumer authorizes the agency
8 to provide such report to such person; or

9 “(B)(i) the transaction consists of a firm
10 offer of credit or insurance;

11 “(ii) the consumer reporting agency has
12 complied with subsection (f); and

13 “(iii) the consumer has not elected in ac-
14 cordance with subsection (f)(1) to have the con-
15 sumer’s name and address excluded from lists
16 provided by the agency.

17 “(2) LIMITS ON INFORMATION RECEIVED
18 UNDER PARAGRAPH (1)(B).—A person may receive
19 pursuant to paragraph (1)(B) only—

20 “(A) the name and address of a consumer;

21 “(B) an identifier that is not unique to the
22 consumer and that is used by the person solely
23 for the purpose of verifying the identity of the
24 consumer; and

1 “(C) information pertaining to a consumer
2 that is not identified or identifiable with the
3 consumer.

4 “(3) INFORMATION REGARDING INQUIRIES.—
5 Except as provided in section 609(a)(4), a consumer
6 reporting agency shall not furnish to any person a
7 record of inquiries resulting from credit or insurance
8 transactions that are not initiated by a consumer.”.

9 (b) FURNISHING CONSUMER REPORTS FOR DIRECT
10 MARKETING TRANSACTIONS.—Section 604 of the Fair
11 Credit Reporting Act (15 U.S.C. 1681b), as amended by
12 subsection (a), is amended by adding at the end the follow-
13 ing new subsections:

14 “(e) FURNISHING CONSUMER REPORTS FOR DIRECT
15 MARKETING TRANSACTIONS NOT INITIATED BY
16 CONSUMER.—

17 “(1) FURNISHING REPORTS PROHIBITED.—Ex-
18 cept as provided in subsections (a)(2) and (d), a
19 consumer reporting agency may not furnish a
20 consumer report for use for a direct marketing
21 transaction that is not initiated by the consumer to
22 whom the report relates, if—

23 “(A) the consumer notifies the agency that
24 the consumer does not consent to that use;

1 “(B) the report includes any information
2 other than the name and address of the
3 consumer; or

4 “(C) furnishing the information would dis-
5 close the credit payment history, credit limit,
6 credit balance, or any negative information per-
7 taining to the consumer.

8 “(2) NOTIFICATION.—A consumer may notify a
9 consumer reporting agency for purposes of para-
10 graph (1)(A) either—

11 “(A) in writing; or

12 “(B) in the case of an agency that com-
13 piles and maintains files on consumers on a na-
14 tionwide basis, by calling the toll-free telephone
15 number established pursuant to subsection
16 (f)(3).

17 “(f) ELECTION OF CONSUMER TO BE EXCLUDED
18 FROM LISTS.—

19 “(1) IN GENERAL.—A consumer may elect to
20 have such consumer’s name and address excluded
21 from any list provided by a consumer reporting
22 agency pursuant to subsection (d)(1)(B) or (e)(2),
23 by—

24 “(A) notifying the agency, in writing or
25 through the notification system maintained by

1 the agency under paragraph (3), that the
2 consumer does not consent to any use of
3 consumer reports relating to the consumer in
4 connection with any credit or insurance trans-
5 action that is not initiated by the consumer or
6 in connection with a direct marketing trans-
7 action that is not initiated by the consumer; or

8 “(B) returning to the agency a signed
9 written notice of the election, as provided by the
10 agency in accordance with paragraph (2).

11 “(2) PROVISION OF WRITTEN NOTICE TO
12 CONSUMER.—A consumer reporting agency shall
13 mail to a consumer a written notice for purposes of
14 paragraph (1)(B), not later than 5 business days
15 after being notified of the election of the consumer
16 in accordance with paragraph (1)(A).

17 “(3) NOTIFICATION SYSTEM.—Each consumer
18 reporting agency that furnishes a consumer report
19 pursuant to subsection (d)(1)(B) in connection with
20 any credit or insurance transaction that is not initi-
21 ated by a consumer or pursuant to subsection (e) in
22 connection with any direct marketing transaction
23 that is not initiated by the consumer, shall establish
24 and maintain a notification system, including a toll-
25 free telephone number, which permits a consumer

1 whose consumer report is maintained by the agency
2 to notify the agency, with appropriate identification,
3 of the consumer's election to have the consumer's
4 name and address excluded from any list of names
5 and addresses provided by the agency or its affiliates
6 pursuant to subsection (d)(1)(B) or (e)(2). Estab-
7 lishment and maintenance of a nationwide notifica-
8 tion system and publication by a consumer reporting
9 agency on a nationwide basis in accordance with this
10 paragraph shall be considered to fulfill the require-
11 ments of this paragraph with respect to each affili-
12 ate of the agency.

13 “(4) AGENCIES OPERATING NATIONWIDE.—
14 Each consumer reporting agency that compiles and
15 maintains files on consumers on a nationwide basis
16 shall establish and maintain a notification system
17 under paragraph (3) jointly with other such
18 consumer reporting agencies.

19 “(5) EFFECTIVENESS OF ELECTION.—An elec-
20 tion of a consumer under paragraph (1)—

21 “(A) shall be effective with respect to a
22 consumer reporting agency beginning on the
23 date on which the consumer notifies the agency
24 in accordance with paragraph (1)(A);

25 “(B) shall be effective—

1 1681c(a)) is amended in subsection (a), by striking “(a)
2 Except as authorized under subsection (b) of this section,
3 no” and inserting “(a) OBSOLETE INFORMATION.—Ex-
4 cept as otherwise specifically authorized, no”.

5 (b) ADDITIONAL INFORMATION ON BANKRUPTCY
6 FILINGS REQUIRED.—Section 605(b) of the Fair Credit
7 Reporting Act (15 U.S.C. 1681c(b)) is amended to read
8 as follows:

9 “(b) INFORMATION REQUIRED TO BE DISCLOSED.—
10 A consumer reporting agency that furnishes a consumer
11 report that contains information regarding any case in-
12 volving the consumer which arises under title 11, United
13 States Code, shall include in the report an identification
14 of the chapter of such title 11 under which such case
15 arises if provided by the source of the information. If any
16 case arising or filed under such title 11 is withdrawn by
17 the consumer prior to a final judgment, the consumer re-
18 porting agency shall include in the report that such case
19 or filing was withdrawn upon receipt of documentation
20 certifying such withdrawal.”.

21 (c) CLARIFICATION OF REPORTING PERIOD.—Sec-
22 tion 605 of the Fair Credit Reporting Act (15 U.S.C.
23 1681c) is amended by adding at the end the following new
24 subsection:

1 “(c) RUNNING OF REPORTING PERIOD.—The 7-year
2 period referred to in paragraphs (4) and (6) of subsection
3 (a) shall begin, with respect to a delinquent account that
4 is placed for collection (internally or by referral to a third
5 party, whichever is earlier), charged to profit and loss, or
6 subjected to any similar action, upon the expiration of the
7 180-day period beginning on the date of the commence-
8 ment of the delinquency that immediately preceded the
9 collection activity, charge to profit and loss, or similar ac-
10 tion. The requirements of this subsection shall apply only
11 to information added to a consumer report beginning 1
12 year after the date of enactment of the Consumer Report-
13 ing Reform Act of 1994.”.

14 (d) DISCLOSURE OF PERSONAL INFORMATION.—Sec-
15 tion 605 of the Fair Credit Reporting Act (15 U.S.C.
16 1681c), as amended by subsection (c), is amended by add-
17 ing at the end the following new subsection:

18 “(d) DISCLOSURE OF PERSONAL INFORMATION.—A
19 person who prepares a consumer report that includes per-
20 sonal credit information on a consumer shall not include
21 in the report any adverse item of information on the
22 consumer with respect to matters which antedate the re-
23 port by more than 10 years or which could not be included
24 in any consumer report on the consumer in accordance
25 with this section.”.

1 (e) INDICATION OF CLOSURE OF ACCOUNT.—Section
2 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c),
3 as amended by subsection (d), is amended by adding at
4 the end the following new subsection:

5 “(e) INDICATION OF CLOSURE OF ACCOUNT BY
6 CONSUMER.—If a consumer reporting agency is notified
7 pursuant to section 622(a)(4) that a consumer’s credit ac-
8 count was voluntarily closed by the consumer, the agency
9 shall indicate that fact in any consumer report that in-
10 cludes information related to that account.”.

11 (f) CLERICAL AMENDMENTS.—

12 (1) SECTION HEADING.—The heading for sec-
13 tion 605 of the Fair Credit Reporting Act (15
14 U.S.C. 1681c) is amended to read as follows:

15 **“SEC. 605. REQUIREMENTS RELATING TO INFORMATION**
16 **CONTAINED IN CONSUMER REPORTS.”.**

17 (2) TABLE OF SECTIONS.—The table of sections
18 at the beginning of the Fair Credit Reporting Act
19 (15 U.S.C. 1681a et seq.) is amended by striking
20 the item relating to section 605 and inserting the
21 following:

“605. Requirements relating to information contained in consumer re-
ports.”.

1 **SEC. 105. AMENDMENTS RELATING TO COMPLIANCE PRO-**
2 **CEDURES.**

3 (a) NOTICE TO USERS AND PROVIDERS OF INFORMA-
4 TION TO ENSURE COMPLIANCE.—

5 (1) IN GENERAL.—Section 607 of the Fair
6 Credit Reporting Act (15 U.S.C. 1681e), as amend-
7 ed by section 102(c), is amended by adding at the
8 end the following new subsection:

9 “(d) NOTICE TO USERS AND FURNISHERS OF INFOR-
10 MATION.—A consumer reporting agency shall provide no-
11 tice to a person of such person’s responsibilities under this
12 title if such person—

13 “(1) regularly and in the ordinary course of
14 business furnishes information to the agency with
15 respect to a consumer; or

16 “(2) is provided by the agency with a consumer
17 report.”.

18 (2) CONTENT OF NOTICE.—Not later than 1
19 year after the date of enactment of this Act, the
20 Federal Trade Commission shall prescribe the con-
21 tent of notices required under section 607(d) of the
22 Fair Credit Reporting Act, as added by this sub-
23 section.

24 (b) RECORD OF IDENTITY OF USERS AND PURPOSES
25 CERTIFIED BY USERS OF REPORTS.—Section 607 of the
26 Fair Credit Reporting Act (15 U.S.C. 1681e), as amended

1 by subsection (a), is amended by adding at the end the
2 following new subsection:

3 “(e) PROCUREMENT OF CONSUMER REPORT FOR RE-
4 SALE.—

5 “(1) DISCLOSURE.—A person may not procure
6 a consumer report for purposes of reselling the re-
7 port (or the information contained in the report) un-
8 less the person discloses to the consumer reporting
9 agency that originally furnished the report—

10 “(A) the identity of the ultimate user of
11 the report (or the information), and

12 “(B) each permissible purpose under sec-
13 tion 604 for which the report will be furnished
14 to the ultimate user of the report (or the infor-
15 mation).

16 “(2) RESPONSIBILITIES OF PROCURERS FOR
17 RESALE.—A person who procures a consumer report
18 for purposes of reselling the report (or the informa-
19 tion contained in the report) shall—

20 “(A) establish and comply with reasonable
21 procedures, which shall be designed to ensure
22 that the report (or the information) is resold by
23 such person only for a purpose for which the re-
24 port may be furnished under section 604, in-
25 cluding—

1 “(i) identifying each prospective user
2 of the resold report (or the information);

3 “(ii) certifying each purpose for which
4 the report (or the information) will be
5 used; and

6 “(iii) certifying that the report (or the
7 information) will be used for no other pur-
8 pose; and

9 “(B) before reselling the report, make rea-
10 sonable efforts to verify the identifications and
11 certifications made under subparagraph (A).”.

12 **SEC. 106. AMENDMENTS RELATING TO CONSUMER DISCLO-**
13 **SURES.**

14 (a) ALL INFORMATION IN CONSUMER’S FILE RE-
15 QUIRED TO BE DISCLOSED.—Section 609(a)(1) of the
16 Fair Credit Reporting Act (15 U.S.C. 1681g(a)(1)) is
17 amended to read as follows:

18 “(1) All information in the consumer’s file at
19 the time of the request.”.

20 (b) MORE INFORMATION CONCERNING RECIPIENTS
21 OF REPORTS REQUIRED.—Section 609(a)(3) of the Fair
22 Credit Reporting Act (15 U.S.C. 1681g(a)(3)) is amended
23 to read as follows:

24 “(3)(A) Identification of each person who pro-
25 cured a consumer report—

1 “(i) for employment purposes during the 2-
2 year period preceding the request; and

3 “(ii) for any other purpose during the 1-
4 year period preceding the request.

5 “(B) An identification of a person under sub-
6 paragraph (A) shall include—

7 “(i) the name of the person or, if applica-
8 ble, the trade name (written in full) under
9 which such person conducts business; and

10 “(ii) upon request of the consumer, the ad-
11 dress and telephone number of the person.”.

12 (c) INFORMATION REGARDING INQUIRIES.—Section
13 609(a) of the Fair Credit Reporting Act (15 U.S.C.
14 1681g(a)) is amended by adding at the end the following
15 new paragraph:

16 “(4) A record of all inquiries received by the
17 agency during the 1-year period preceding the re-
18 quest that identified the consumer in connection
19 with a credit or insurance transaction that was not
20 initiated by the consumer.”.

21 (d) SUMMARY OF RIGHTS REQUIRED TO BE IN-
22 CLUDED WITH DISCLOSURE.—

23 (1) IN GENERAL.—Section 609 of the Fair
24 Credit Reporting Act (15 U.S.C. 1681g) is amended
25 by adding at the end the following new subsection:

1 “(c) SUMMARY OF RIGHTS REQUIRED TO BE IN-
2 CLUDED WITH DISCLOSURE.—

3 “(1) SUMMARY OF RIGHTS.—A consumer re-
4 porting agency shall provide to a consumer, on or
5 with each written disclosure by the agency to the
6 consumer under this section—

7 “(A) a written summary of all rights af-
8 farded to the consumer under this title; and

9 “(B) in the case of a consumer reporting
10 agency that compiles and maintains consumer
11 reports on a nationwide basis, a toll-free tele-
12 phone number that the consumer can use to
13 communicate with the agency.

14 “(2) SPECIFIC ITEMS REQUIRED TO BE IN-
15 CLUDED.—The summary of rights required under
16 paragraph (1) shall include—

17 “(A) a brief description of this title and all
18 rights of consumers under this title;

19 “(B) an explanation of how the consumer
20 may exercise the rights of the consumer under
21 this title;

22 “(C) a list of all Federal agencies respon-
23 sible for enforcing any provision of this title
24 and the address and any appropriate telephone
25 number of each such agency, in a form that will

1 assist the consumer in selecting the appropriate
2 agency; and

3 “(D) a statement that a consumer report-
4 ing agency is not required to remove accurate
5 derogatory information from a consumer’s file
6 unless the information is outdated, as deter-
7 mined in accordance with section 605, or unless
8 the information cannot be verified.

9 “(3) FORM OF SUMMARY OF RIGHTS.—The
10 Federal Trade Commission (after consultation with
11 each Federal agency referred to in section 621(b))
12 shall prescribe the form and content of any disclo-
13 sure with respect to consumers’ rights required to be
14 made by a consumer reporting agency under this
15 title.

16 “(4) STATE DISCLOSURES.—Notwithstanding
17 paragraphs (1) through (3), a State shall retain the
18 authority to require additional disclosures pertaining
19 to State law in connection with a consumer report.
20 Nothing in this subsection shall be construed to limit
21 the authority of a State to mandate the time by
22 which a disclosure shall be made to a consumer.”.

23 (2) TECHNICAL AMENDMENT.—Section
24 606(a)(1)(B) of the Fair Credit Reporting Act (15
25 U.S.C. 1681d(a)(1)(B)) is amended by inserting be-

1 fore the semicolon the following: “and the written
2 summary of the rights of the consumer prepared
3 pursuant to section 609(c)”.

4 (e) FORM OF DISCLOSURES.—

5 (1) IN GENERAL.—Subsections (a) and (b) of
6 section 610 of the Fair Credit Reporting Act (15
7 U.S.C. 1681h) are amended to read as follows:

8 “(a) WRITTEN DISCLOSURE.—The disclosures re-
9 quired to be made under section 609 shall be provided to
10 a consumer in writing.

11 “(b) OTHER FORMS OF DISCLOSURE.—

12 “(1) IN GENERAL.—In addition to the written
13 disclosures required by subsection (a), a consumer
14 reporting agency may make the disclosures required
15 under section 609 other than in written form if—

16 “(A) the consumer authorizes the disclo-
17 sure;

18 “(B) the consumer furnishes proper identi-
19 fication to the consumer reporting agency;

20 “(C) the consumer specifies the form of
21 disclosure; and

22 “(D) such form of disclosure is available
23 from the agency.

1 “(2) FORM.—A consumer may specify, pursu-
2 ant to paragraph (1), that disclosures under section
3 609 be made—

4 “(A) in person, upon the appearance of the
5 consumer at the place of business of the
6 consumer reporting agency where disclosures
7 are regularly provided, during normal business
8 hours, and on reasonable notice;

9 “(B) by telephone, if the consumer has
10 made a written request for disclosure by tele-
11 phone that includes the proper identification of
12 the consumer, as required by paragraph (1)(B);

13 “(C) by electronic means, if available from
14 the agency; or

15 “(D) by any other reasonable means avail-
16 able from the agency.”.

17 (2) SIMPLIFIED DISCLOSURE.—Not later than
18 90 days after the date of enactment of this Act, each
19 consumer reporting agency shall develop a form on
20 which such consumer reporting agency shall make
21 the disclosures required under section 609(a) of the
22 Fair Credit Reporting Act, for the purpose of maxi-
23 mizing the comprehensibility and standardization of
24 such disclosures.

1 (3) GOALS.—The Federal Trade Commission
2 shall take appropriate action to assure that the goals
3 of comprehensibility and standardization are
4 achieved in accordance with paragraph (2).

5 (4) CONFORMING AMENDMENTS.—

6 (A) SECTION HEADING.—The section
7 heading for section 610 of the Fair Credit Re-
8 porting Act (15 U.S.C. 1681h) is amended to
9 read as follows:

10 **“SEC. 610. CONDITIONS AND FORM OF DISCLOSURE TO**
11 **CONSUMERS.”.**

12 (B) TABLE OF SECTIONS.—The table of
13 sections at the beginning of the Fair Credit Re-
14 porting Act (15 U.S.C. 1681a et seq.) is
15 amended by striking the item relating to section
16 610 by inserting the following:

“610. Conditions and form of disclosure to consumers.”.

17 **SEC. 107. AMENDMENTS RELATING TO PROCEDURES IN**
18 **CASE OF THE DISPUTED ACCURACY OF ANY**
19 **INFORMATION IN A CONSUMER’S FILE.**

20 (a) IN GENERAL.—Section 611(a) of the Fair Credit
21 Reporting Act (15 U.S.C. 1681i(a)) is amended to read
22 as follows:

23 **“(a) REINVESTIGATION OF DISPUTED INFORMA-**
24 **TION.—**

1 “(1) IN GENERAL.—If the completeness or ac-
2 curacy of an item of information contained in a con-
3 sumer’s file at a consumer reporting agency is dis-
4 puted by the consumer and the consumer notifies
5 the agency directly of such dispute, the agency shall
6 reinvestigate free of charge and record the current
7 status of the disputed information before the later
8 of—

9 “(A) the expiration of the 30-day period
10 beginning on the date the agency receives the
11 notice of the dispute from the consumer; or

12 “(B) the expiration of the 15-day period
13 beginning on the last date on which the agency
14 receives relevant information submitted by the
15 consumer in accordance with paragraph (4).

16 “(2) PROMPT NOTICE OF DISPUTE TO FUR-
17 NISHER OF INFORMATION.—Not later than 5 busi-
18 ness days after the date on which a consumer re-
19 porting agency receives notice of a dispute from a
20 consumer in accordance with paragraph (1), the
21 agency shall notify any person who provided any
22 item of information in dispute at the address and in
23 the manner established with the person.

24 “(3) DETERMINATION THAT DISPUTE IS FRIVO-
25 LOUS OR IRRELEVANT.—

1 “(A) IN GENERAL.—Notwithstanding para-
2 graph (1), a consumer reporting agency may
3 terminate a reinvestigation of information dis-
4 puted by a consumer under that paragraph if
5 the agency reasonably determines that the dis-
6 pute raised by the consumer is frivolous or ir-
7 relevant, including by reason of a failure to pro-
8 vide sufficient information to investigate the
9 dispute.

10 “(B) NOTICE OF DETERMINATION.—Not
11 later than 5 business days after making a de-
12 termination in accordance with subparagraph
13 (A) that a dispute is frivolous or irrelevant, a
14 consumer reporting agency shall mail to the
15 consumer a written notification of such deter-
16 mination (including the reasons for the deter-
17 mination), and, if authorized by the consumer
18 for that purpose, notification by any other
19 means available to the agency.

20 “(4) CONSIDERATION OF CONSUMER INFORMA-
21 TION.—In conducting any reinvestigation under
22 paragraph (1) with respect to disputed information
23 in the file of a consumer, the consumer reporting
24 agency shall review and consider all relevant infor-
25 mation submitted by the consumer during the 30-

1 day period beginning on the date the agency receives
2 the notice of the dispute from the consumer.

3 “(5) DELETION OF INACCURATE OR UNVERIFI-
4 ABLE INFORMATION.—

5 “(A) IN GENERAL.—If, in the course of a
6 reinvestigation under paragraph (1) of any in-
7 formation disputed by a consumer, an item of
8 the information is found to be inaccurate or
9 cannot be verified, the consumer reporting
10 agency shall delete that item of information
11 from the consumer’s file.

12 “(B) REQUIREMENTS RELATING TO
13 REINSERTION OF PREVIOUSLY DELETED MATE-
14 RIAL.—

15 “(i) CERTIFICATION OF ACCURACY OF
16 INFORMATION.—If any information is de-
17 leted from a consumer’s file pursuant to
18 subparagraph (A), the information may
19 not be reinserted in the file after the dele-
20 tion unless the person who furnishes the
21 information certifies that the information
22 is complete and accurate.

23 “(ii) NOTICE TO CONSUMER.—If any
24 information that has been deleted from a
25 consumer’s file pursuant to subparagraph

1 (A) is reinserted in the file in accordance
2 with clause (i), the consumer reporting
3 agency shall, not later than 5 business
4 days after such reinsertion, mail to the
5 consumer written notification of the
6 reinsertion, and, if authorized by the
7 consumer for that purpose, shall provide
8 such notice by any other means available
9 to the agency.

10 “(iii) CONTENTS.—The notice of
11 reinsertion required under clause (ii) shall
12 include—

13 “(I) all information prescribed in
14 clauses (iii) and (v) of paragraph
15 (6)(B);

16 “(II) a description of the proce-
17 dure used to make the finding that
18 the information should be reinserted;
19 and

20 “(III) the name, business ad-
21 dress, and telephone number of any
22 furnisher of information contacted in
23 connection with such information.

24 “(C) PROCEDURES TO PREVENT RE-
25 APPEARANCE.—A consumer reporting agency

1 shall maintain reasonable procedures designed
2 to prevent the reappearance in a consumer's
3 file, and in consumer reports on the consumer,
4 of information that is required to be deleted
5 pursuant to this paragraph (other than infor-
6 mation that is reinserted in accordance with
7 subparagraph (B)(i)).

8 “(6) NOTICE OF RESULTS OF
9 REINVESTIGATION.—

10 “(A) IN GENERAL.—A consumer reporting
11 agency shall mail to the consumer written noti-
12 fication of the results of a reinvestigation under
13 this subsection not later than 5 business days
14 after the completion of the reinvestigation, and,
15 if authorized by the consumer for that purpose,
16 shall provide notification by other means avail-
17 able to the agency.

18 “(B) CONTENTS.—As part of or in addi-
19 tion to the notice under subparagraph (A), a
20 consumer reporting agency shall provide to a
21 consumer in writing during the 5-business-day
22 period referred to in subparagraph (A)—

23 “(i) a statement that the
24 reinvestigation is completed;

1 “(ii) a consumer report that is based
2 upon the consumer’s file as that file is re-
3 vised as a result of the reinvestigation;

4 “(iii) a description or indication of
5 any changes made in the consumer report
6 as a result of those revisions to the con-
7 sumer’s file;

8 “(iv) in any case in which disputed in-
9 formation is found to be accurate and com-
10 plete (and in any other case upon request
11 by the consumer), a description of the pro-
12 cedure used to make the finding and the
13 name, business address, and telephone
14 number of any furnisher of information
15 contacted in connection with such informa-
16 tion;

17 “(v) a notification that the consumer
18 has the right to insert a statement in such
19 consumer’s file disputing the accuracy or
20 completeness of the information in the file;
21 and

22 “(vi) a clear and conspicuous notifica-
23 tion of the right of the consumer to re-
24 quest under subsection (d) that the

1 consumer reporting agency furnish notifi-
2 cations under that subsection.

3 “(7) DESCRIPTION OF REINVESTIGATION PRO-
4 CEDURE.—Not later than 15 days after receiving a
5 request from the consumer for a description referred
6 to in paragraph (6)(B)(iv), the consumer reporting
7 agency shall provide such description to the
8 consumer.

9 “(8) EXCEPTION.—If the dispute is resolved by
10 the deletion of the disputed information not later
11 than 3 business days after the date on which the
12 consumer reporting agency receives notice of the dis-
13 pute in accordance with paragraph (1), the
14 consumer reporting agency shall be exempt from the
15 requirements of paragraphs (2) and (6) if the
16 consumer reporting agency—

17 “(A) provides prompt notification of the
18 deletion to the consumer by telephone;

19 “(B) provides written confirmation of the
20 deletion, upon request by the consumer; and

21 “(C) maintains reasonable procedures de-
22 signed to prevent the reappearance in the con-
23 sumer’s file, and in reports on the consumer, of
24 information deleted pursuant to paragraph (5).

1 “(9) CONSIDERATION OF CONSUMER DOCU-
2 MENTATION.—

3 “(A) IN GENERAL.—Reinvestigation under
4 this section shall include an acceptance of the
5 consumer’s version of the disputed information
6 and correction or deletion of the disputed infor-
7 mation, if the consumer submits to the
8 consumer reporting agency documentation ob-
9 tained from the source of the information in
10 dispute confirming that the disputed informa-
11 tion in the consumer report is inaccurate or in-
12 complete.

13 “(B) EXCEPTION.—Notwithstanding sub-
14 paragraph (A), the consumer reporting agency
15 need not accept the consumer’s version of the
16 disputed information if the consumer reporting
17 agency, acting in good faith—

18 “(i) has reason to doubt the authen-
19 ticity of the documentation submitted by
20 the consumer;

21 “(ii) reinvestigates the dispute by con-
22 tacting the source of the disputed item;
23 and

24 “(iii) verifies that the documentation
25 is not authentic.

1 “(10) INFORMATION FROM CONSUMER.—Noth-
2 ing in paragraph (1)(B) or paragraph (4) shall be
3 construed to require a consumer to provide informa-
4 tion in connection with a reinvestigation under this
5 section.”.

6 (b) CONFORMING AMENDMENT.—Section 611(d) of
7 the Fair Credit Reporting Act (15 U.S.C. 1681i(d)) is
8 amended by striking “The consumer reporting agency
9 shall clearly” and all that follows through the end of the
10 subsection.

11 **SEC. 108. AMENDMENT RELATING TO CHARGES FOR DIS-**
12 **CLOSURE.**

13 (a) IN GENERAL.—Section 612 of the Fair Credit
14 Reporting Act (15 U.S.C. 1681j) is amended to read as
15 follows:

16 **“SEC. 612. CHARGES FOR DISCLOSURES AND CERTAIN NO-**
17 **TICES PROHIBITED.**

18 “(a) FREE CONSUMER REPORTS.—Each consumer
19 reporting agency that maintains a file on a consumer shall
20 make all disclosures pursuant to section 609 without
21 charge to the consumer—

22 “(1) if the consumer makes a request under
23 section 609 not later than 60 days after receipt by
24 such consumer of a notification pursuant to section
25 615 or of a notification from a debt collection agen-

1 cy affiliated with that consumer reporting agency
2 stating that the consumer's credit rating may be or
3 has been adversely affected;

4 “(2) upon written request by the consumer not
5 later than 1 year after the consumer receives a noti-
6 fication under subsection (b)(2); and

7 “(3) if the consumer certifies in writing that
8 the consumer—

9 “(A) is unemployed and intends to apply
10 for employment during the 60-day period begin-
11 ning on the date on which such certification is
12 made;

13 “(B) is a recipient of public welfare assist-
14 ance; or

15 “(C) has been the victim of fraud.

16 “(b) CHARGE FOR CERTAIN NOTICES PROHIB-
17 ITED.—A consumer reporting agency shall not impose any
18 charge on the consumer for—

19 “(1) providing a notice required under section
20 604(f)(2), 607(d), or 611(a); or

21 “(2) notifying a person pursuant to section
22 611(d) of the deletion of information that is found
23 to be inaccurate or that can no longer be verified,
24 if the consumer designates that person to the agency
25 before the end of the 30-day period beginning on the

1 date of the notification of the consumer under sec-
2 tion 611(a)(6).

3 “(c) CONSUMER REPORTS AT SPECIFIED CHARGE.—

4 “(1) IN GENERAL.—Upon the written request
5 of a consumer, a consumer reporting agency that
6 maintains a file on the consumer shall make all dis-
7 closures pursuant to section 609 once during any
8 12-month period at the applicable charge described
9 in paragraph (2).

10 “(2) APPLICABLE CHARGE.—For purposes of
11 paragraph (1), the applicable charge shall not exceed
12 the lesser of—

13 “(A) the total costs incurred by the
14 consumer reporting agency in making the dis-
15 closures; and

16 “(B) \$3.”.

17 (b) CLERICAL AMENDMENT.—The table of sections
18 at the beginning of the Fair Credit Reporting Act (15
19 U.S.C. 1681a et seq.) is amended by striking the item re-
20 lating to section 612 and inserting the following:

“612. Charges for disclosures and certain notices prohibited.”.

21 **SEC. 109. AMENDMENTS RELATING TO DUTIES OF USERS**
22 **OF CONSUMER REPORTS.**

23 (a) DUTIES OF USERS TAKING ADVERSE ACTIONS.—
24 Section 615(a) of the Fair Credit Reporting Act (15
25 U.S.C. 1681m(a)) is amended to read as follows:

1 “(a) DUTIES OF USERS TAKING ADVERSE ACTIONS
2 ON THE BASIS OF INFORMATION CONTAINED IN
3 CONSUMER REPORTS.—If a person takes any adverse ac-
4 tion with respect to a consumer in connection with credit,
5 employment purposes, insurance underwriting, any license
6 or benefit described in section 604(a)(3)(D), or any busi-
7 ness transaction involving the consumer that is based, in
8 whole or in part, on any information contained in a
9 consumer report, the person shall—

10 “(1) provide written notice of the adverse action
11 to the consumer;

12 “(2) provide to the consumer—

13 “(A) the name, address, and telephone
14 number (including any available toll-free tele-
15 phone number) of the consumer reporting agen-
16 cy that furnished the report to the person; and

17 “(B) a statement that the consumer re-
18 porting agency did not make the decision to
19 take the adverse action; and

20 “(3) provide to the consumer a written notice of
21 the consumer’s right—

22 “(A) to obtain, under section 612, a free
23 copy of a consumer report on the consumer,
24 from the consumer reporting agency referred to
25 in paragraph (2); and

1 “(B) to dispute, under section 611, with a
2 consumer reporting agency the accuracy or
3 completeness of any information in a consumer
4 report furnished by the agency.”.

5 (b) DUTIES OF USERS WHO MAKE CERTAIN SOLICI-
6 TATIONS.—Section 615 of the Fair Credit Reporting Act
7 (15 U.S.C. 1681m) is amended by adding at the end the
8 following new subsection:

9 “(d) DUTIES OF USERS WHO MAKE WRITTEN CRED-
10 IT OR INSURANCE SOLICITATIONS ON THE BASIS OF IN-
11 FORMATION CONTAINED IN CONSUMER FILES.—

12 “(1) IN GENERAL.—A person who uses a
13 consumer report of a consumer in connection with
14 any credit or insurance transaction that is not initi-
15 ated by the consumer and that consists of a firm
16 offer of credit or insurance shall provide on or with
17 any written solicitation made to the consumer re-
18 garding the transaction a clear and conspicuous
19 statement that—

20 “(A) information contained in the consum-
21 er’s consumer report was used in connection
22 with the transaction;

23 “(B) the consumer received the offer of
24 credit or insurance because the consumer satis-

1 fied the criteria for creditworthiness under
2 which the consumer was selected for the offer;

3 “(C) if applicable, the credit or insurance
4 may not be extended if, after the consumer re-
5 sponds to the offer by submitting an applica-
6 tion, the consumer—

7 “(i) fails to provide correct and ade-
8 quate information in such application; or

9 “(ii) does not meet the criteria estab-
10 lished in advance of the offer for such ex-
11 tension of credit or insurance;

12 “(D) no criteria for creditworthiness will
13 be imposed on the consumer other than the cri-
14 teria established in advance of the offer for
15 such extension of credit or insurance;

16 “(E) the consumer has a right to prohibit
17 information contained in the consumer’s file
18 with a consumer reporting agency to be used in
19 connection with any credit or insurance trans-
20 action that is not initiated by the consumer;
21 and

22 “(F) the consumer may exercise the right
23 referred to in subparagraph (E) by using the
24 joint notification system established under sec-

1 tion 604(f)(4) or the toll-free telephone number
2 established pursuant to section 604(f)(3).

3 “(2) LIMITATION ON APPLICATION.—Paragraph
4 (1) does not apply to the use of a consumer report
5 by a person if—

6 “(A) the person is affiliated by common
7 ownership or by common corporate control with
8 the person who procured the report;

9 “(B) the person who procured the report
10 clearly and conspicuously disclosed to the
11 consumer to whom the report relates, before the
12 report is provided to the person who will use
13 the report, that the report might be provided to
14 and used by other persons who are affiliated in
15 the manner described in subparagraph (A) to
16 the person who procured the report; and

17 “(C) the provision and use of the report is
18 consented to by the consumer in writing.

19 “(3) FALSE AND MISLEADING STATEMENTS.—
20 No statement accompanying a credit or insurance
21 transaction that is not initiated by the consumer
22 shall contain any false or misleading information
23 concerning any condition or criteria for the extension
24 or offer of credit or insurance to the consumer.

1 “(4) MAINTAINING CRITERIA ON FILE.—A per-
2 son who makes an offer of credit or insurance to a
3 consumer under a credit or insurance transaction
4 described in paragraph (1) shall maintain on file the
5 criteria established in advance of the offer for such
6 extension of credit or insurance until the expiration
7 of the 3-year period beginning on the date on which
8 the offer is made to the consumer.”.

9 (c) DUTIES OF USERS FOR DIRECT MARKETING
10 TRANSACTIONS NOT INITIATED BY CONSUMERS.—Section
11 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m),
12 as amended by subsection (b), is amended by adding at
13 the end the following new subsection:

14 “(e) DUTIES OF USERS FOR DIRECT MARKETING
15 TRANSACTIONS NOT INITIATED BY CONSUMERS.—A per-
16 son who, in connection with a direct marketing transaction
17 that is not initiated by a consumer, uses information con-
18 cerning the consumer that is provided by a consumer re-
19 porting agency to that person under section 604(e) shall
20 provide to the consumer with each communication regard-
21 ing the transaction made to the consumer a clear and con-
22 spicuous written statement—

23 “(1) that information concerning the consumer
24 that was provided by a consumer reporting agency
25 was used in connection with the transaction;

1 “(2) that the consumer has the right under sec-
2 tion 604(e) to prohibit any information concerning
3 the consumer from being provided by the consumer
4 reporting agency for use in connection with any di-
5 rect marketing transaction that is not initiated by
6 the consumer;

7 “(3) that the consumer may exercise the right
8 referred to in paragraph (2) by notifying the
9 consumer reporting agency in writing or, in the case
10 of a consumer reporting agency required to establish
11 a toll-free telephone number pursuant to section
12 604(f)(4), by calling that number; and

13 “(4) disclosing the name, address, and, in the
14 case of a consumer reporting agency required to es-
15 tablish a toll-free telephone number pursuant to sec-
16 tion 604(f)(4), the toll-free telephone number at
17 which the agency may be notified.”.

18 (d) AFFILIATE SHARING NOTICE REQUIREMENT.—
19 Section 615 of the Fair Credit Reporting Act (15 U.S.C.
20 1681m), as amended by subsections (b) and (c), is amend-
21 ed by adding at the end the following new subsection:

22 “(f) AFFILIATE SHARING NOTICE REQUIREMENT.—
23 Whenever credit or insurance for personal, family, or
24 household purposes involving a consumer is denied or the
25 charge for such credit is increased, either wholly or partly

1 because of information that is furnished to the user of the
2 information by a person related to the user by common
3 ownership or affiliated by corporate control, and that
4 bears upon the consumer's creditworthiness, credit stand-
5 ing, credit capacity, character, general reputation, per-
6 sonal characteristics, or mode of living, the user of such
7 information shall—

8 “(1) notify the consumer of the action, and
9 upon a written request from the consumer for the
10 reasons for such action that is received by the user
11 not later than 60 days after transmitting such no-
12 tice, not later than 30 days after receiving such re-
13 quest, disclose the nature of the information to the
14 consumer; and

15 “(2) provide to the consumer a toll-free tele-
16 phone number that is established and maintained by
17 the user and that enables the consumer to contact
18 the user regarding the action.”.

19 **SEC. 110. AMENDMENTS RELATING TO CIVIL LIABILITY.**

20 (a) WILLFUL FAILURE TO COMPLY.—Section 616 of
21 the Fair Credit Reporting Act (15 U.S.C. 1681n) is
22 amended to read as follows:

1 **“SEC. 616. CIVIL LIABILITY FOR WILLFUL NONCOMPLI-**
2 **ANCE.**

3 “(a) IN GENERAL.—Except as provided in section
4 622(c), a person who willfully fails to comply with any re-
5 quirement imposed under this title with respect to a
6 consumer is liable to that consumer in an amount pre-
7 scribed under subsection (b).

8 “(b) DAMAGES.—Liability for a willful failure to com-
9 ply described in subsection (a) shall be in an amount equal
10 to the sum of—

11 “(1) any actual damages sustained by the
12 consumer as a result of the failure;

13 “(2) an amount not less than \$300 nor greater
14 than \$1,000;

15 “(3) such punitive damages as the court may
16 allow; and

17 “(4) in the case of a successful action to en-
18 force any liability under this section—

19 “(A) the costs of the action; and

20 “(B) reasonable attorney’s fees, as deter-
21 mined by the court.

22 “(c) ATTORNEY’S FEES.—On a finding by the court
23 that an unsuccessful pleading, motion, or other paper filed
24 in connection with an action under this section was filed
25 in bad faith or for purposes of harassment, the court shall
26 award to the prevailing party attorney’s fees reasonable

1 in relation to the work expended in responding to such
2 pleading, motion, or other paper.”.

3 (b) NEGLIGENT FAILURE TO COMPLY.—Section 617
4 of the Fair Credit Reporting Act (15 U.S.C. 1681o) is
5 amended to read as follows:

6 **“SEC. 617. CIVIL LIABILITY FOR NEGLIGENT NONCOMPLI-**
7 **ANCE.**

8 “(a) IN GENERAL.—Except as provided in section
9 622(c), a person who is negligent in failing to comply with
10 any requirement of this title with respect to a consumer
11 shall be liable to that consumer in an amount prescribed
12 in subsection (b).

13 “(b) DAMAGES.—Liability for a negligent failure to
14 comply described in subsection (a) shall be in an amount
15 equal to the sum of—

16 “(1) any actual damage sustained by a
17 consumer as a result of the failure; and

18 “(2) in the case of any successful action to en-
19 force liability under this section—

20 “(A) the costs of the action; and

21 “(B) reasonable attorney’s fees, as deter-
22 mined by the court.

23 “(c) ATTORNEY’S FEES.—On a finding by the court
24 that an unsuccessful pleading, motion, or other paper filed
25 in connection with an action under this section was filed

1 in bad faith or for purposes of harassment, the court shall
 2 award to the prevailing party attorney’s fees reasonable
 3 in relation to the work expended in responding to such
 4 pleading, motion, or other paper.”.

5 **SEC. 111. AMENDMENTS RELATING TO RESPONSIBILITIES**
 6 **OF PERSONS WHO FURNISH INFORMATION**
 7 **TO CONSUMER REPORTING AGENCIES.**

8 (a) IN GENERAL.—The Fair Credit Reporting Act
 9 (15 U.S.C. 1681 et seq.) is amended—

10 (1) by redesignating sections 622 and 623 as
 11 sections 623 and 624; and

12 (2) by inserting after section 621 the following
 13 new section:

14 **“SEC. 622. RESPONSIBILITIES OF FURNISHERS OF INFOR-**
 15 **MATION TO CONSUMER REPORTING AGEN-**
 16 **CIES.**

17 **“(a) DUTY OF FURNISHERS OF INFORMATION TO**
 18 **PROVIDE COMPLETE AND ACCURATE INFORMATION.—**

19 **“(1) IN GENERAL.—**A person shall not furnish
 20 any information to a consumer reporting agency if
 21 the person knows or should know the information is
 22 incomplete or inaccurate.

23 **“(2) DUTY TO CORRECT AND UPDATE INFOR-**
 24 **MATION AFTER REINVESTIGATION.—**A person who
 25 furnishes to a consumer reporting agency informa-

1 tion that is disputed by a consumer in accordance
2 with section 611 and that, as a result of an inves-
3 tigation conducted in accordance with subsection (b),
4 is determined by the person to be inaccurate or in-
5 complete shall—

6 “(A) promptly notify the consumer report-
7 ing agency of that determination; and

8 “(B) provide to the agency any corrections
9 to that information, or any additional informa-
10 tion, that is necessary to make the information
11 provided by the person to the agency complete
12 and accurate.

13 “(3) DUTY TO CORRECT INFORMATION OTHER-
14 WISE DETERMINED TO BE INACCURATE OR INCOM-
15 plete.—A person who regularly and in the ordinary
16 course of business furnishes to a consumer reporting
17 agency information that, other than as a result of an
18 investigation conducted in accordance with sub-
19 section (b), is determined by the person to be inac-
20 curate or incomplete shall—

21 “(A) promptly notify the consumer report-
22 ing agency of that determination; and

23 “(B) provide to the agency any corrections
24 to that information, or any additional informa-
25 tion, necessary to make the information pro-

1 vided by the person to the agency complete and
2 accurate.

3 “(4) DUTY TO PROVIDE NOTICE OF CONTINU-
4 ING DISPUTE.—If the completeness or accuracy of
5 any information furnished by any person to a
6 consumer reporting agency continues to be disputed
7 by the consumer to such person, that person shall
8 not furnish the information to a consumer reporting
9 agency without notice that such information is dis-
10 puted by the consumer.

11 “(5) DUTY TO PROVIDE NOTICE OF CLOSED AC-
12 COUNTS.—A person who regularly furnishes infor-
13 mation to a consumer reporting agency regarding a
14 consumer who has a credit account with that person
15 shall notify the agency of the closure of that account
16 by the consumer in information regularly furnished
17 for the period in which the account is closed.

18 “(6) DUTY TO PROVIDE NOTICE OF DELIN-
19 QUENCY OF ACCOUNTS.—A person who furnishes in-
20 formation to a consumer reporting agency regarding
21 a delinquent account being placed for collection,
22 charged to profit or loss, or subjected to any similar
23 action shall, by not later than 90 days after furnish-
24 ing the information, notify the agency of the month

1 and year of the commencement of the delinquency
2 which immediately preceded the action.

3 “(b) DUTIES OF FURNISHERS OF INFORMATION
4 UPON NOTICE OF DISPUTE.—Upon receiving notice pur-
5 suant to section 611(a)(2) of a dispute with regard to the
6 completeness or accuracy of any information provided by
7 a person to a consumer reporting agency, the person
8 shall—

9 “(1) complete an investigation with respect to
10 the disputed information and report to the consumer
11 reporting agency the results of that investigation be-
12 fore the end of the applicable period under section
13 611(a), during which the consumer reporting agency
14 is required to complete actions required by that sec-
15 tion regarding that information; and

16 “(2) review relevant information submitted to
17 the consumer reporting agency by the consumer in
18 accordance with section 611(a)(4).

19 “(c) LIMITATIONS.—

20 “(1) LIMITATION ON LIABILITY.—Sections 616
21 and 617 do not apply to any failure to comply with
22 paragraph (1), (3), (4), (5), or (6) of subsection (a).

23 “(2) ENFORCEMENT.—Paragraphs (1), (3), (4),
24 (5), and (6) of subsection (a) shall be enforced ex-

1 clusively under section 621 by the agencies identified
2 in that section.

3 “(3) INJUNCTIVE RELIEF.—In an action alleg-
4 ing a violation of subsection (a)(1), the court shall
5 have jurisdiction to enjoin the violation only where
6 the action is brought by the Federal Trade Commis-
7 sion or the attorney general of a State.”.

8 (b) CLERICAL AMENDMENT.—The table of sections
9 for title VI of the Consumer Credit Protection Act is
10 amended—

11 (1) by redesignating the items relating to sec-
12 tions 622 and 623 as sections 623 and 624, respec-
13 tively; and

14 (2) inserting after the item relating to section
15 621 the following new item:

“622. Responsibilities of furnishers of information to consumer reporting agencies.”.

16 **SEC. 112. STATE ACTION TO ENFORCE ACT.**

17 Section 621 of the Fair Credit Reporting Act (15
18 U.S.C. 1681s) is amended by adding at the end the follow-
19 ing new subsection:

20 “(d) STATE ACTION TO ENFORCE TITLE.—

21 “(1) IN GENERAL.—If a person violates any re-
22 quirement imposed under this title, the chief law en-
23 forcement officer of the State in which such violation

1 occurred (or an official or agency designated by that
2 State) may bring an action—

3 “(A) to restrain such violation;

4 “(B) to recover amounts for which such
5 person is liable under this title to each
6 consumer on whose behalf the action is brought;

7 “(C) to seek such remedies as are allowed
8 under the laws of such State; or

9 “(D) except in the case of a violation of
10 section 622(a)(1), to collect a civil penalty of
11 not more than \$1,000 for each such violation.

12 “(2) NOTICE.—The State shall serve prior writ-
13 ten notice of any civil action under this subsection
14 upon the Commission and provide the Commission
15 with a copy of the complaint. If prior notice is not
16 feasible, the State attorney general shall provide no-
17 tice immediately upon initiating the action. Upon re-
18 ceiving notice of a civil action under this section, the
19 Commission shall have the right—

20 “(A) to intervene in the action;

21 “(B) upon so intervening, to be heard on
22 all matters arising therein; and

23 “(C) to file petitions for appeal.”

1 **SEC. 113. ADMINISTRATIVE ENFORCEMENT.**

2 (a) IN GENERAL.—Section 621(a) of the Fair Credit
3 Reporting Act (15 U.S.C. 1681s(a)) is amended in the
4 second sentence—

5 (1) by striking “Act and shall be subject to en-
6 forcement by the Federal Trade Commission under
7 section 5(b) thereof with respect to a consumer re-
8 porting agency or person subject to enforcement by
9 the Federal Trade Commission pursuant to this sub-
10 section, irrespective” and inserting “Act. All func-
11 tions and powers of the Federal Trade Commission
12 under the Federal Trade Commission Act shall be
13 available to the Federal Trade Commission to en-
14 force compliance with this title by any person sub-
15 ject to enforcement by the Federal Trade Commis-
16 sion pursuant to this subsection and not subject to
17 enforcement pursuant to section 8 of the Federal
18 Deposit Insurance Act, irrespective”; and

19 (2) by inserting before the period “, including
20 the power to enforce the provisions of this title in
21 the same manner as if the violation had been a vio-
22 lation of any Federal Trade Commission trade regu-
23 lation rule, except that no civil penalty may be im-
24 posed for a violation of section 622(a)(1)”.

25 (b) FEDERAL RESERVE BOARD INTERPRETIVE AU-
26 THORITY.—Section 621 of the Fair Credit Reporting Act

1 (15 U.S.C. 1681s), as amended by section 112, is amend-
2 ed by adding at the end the following new subsection:

3 “(e) INTERPRETIVE AUTHORITY.—The Board of
4 Governors of the Federal Reserve System may issue an
5 interpretation of any provision of this title as it may apply
6 to any person identified in paragraph (1), (2), or (3) of
7 subsection (b), and the holding companies and affiliates
8 of such person, in consultation with the Federal agencies
9 identified in paragraph (1), (2), or (3) of subsection (b).”.

10 **SEC. 114. ESTABLISHMENT OF TOLL-FREE TELEPHONE**
11 **NUMBER.**

12 Not later than 1 year after the date of enactment
13 of this Act, each consumer reporting agency that compiles
14 and maintains consumer reports on a nationwide basis
15 shall establish, and thereafter maintain, a toll-free tele-
16 phone number for the purpose of making agency personnel
17 accessible to consumers pursuant to section 609(c)(1)(B)
18 of the Fair Credit Reporting Act.

19 **SEC. 115. ACTION BY FTC.**

20 Not later than 270 days after the date of enactment
21 of this Act, the Federal Trade Commission shall prescribe
22 all matters required to be prescribed by the Federal Trade
23 Commission under this title and the amendments made
24 by this title.

1 **SEC. 116. RELATION TO STATE LAWS.**

2 Section 624 of the Fair Credit Reporting Act (15
3 U.S.C. 1681t) (as redesignated by section 111 of this Act)
4 is amended—

5 (1) by striking “This title” and inserting the
6 following:

7 “(a) IN GENERAL.—This title”;

8 (2) by inserting “, and except as provided in
9 subsection (b)” before the period at the end; and

10 (3) by adding at the end the following new sub-
11 section:

12 “(b) EXCEPTIONS.—

13 “(1) STATE LAW.—No requirement or prohibi-
14 tion may be imposed under the laws of any State—

15 “(A) with respect to any subject matter
16 regulated under—

17 “(i) section 604(d), relating to the
18 prescreening of consumer reports;

19 “(ii) section 605, relating to obsolete
20 information, except that this clause does
21 not affect the applicability of any State law
22 in effect on the date of enactment of the
23 Consumer Reporting Reform Act of 1994;

24 “(iii) section 611, relating to the time
25 by which a consumer reporting agency
26 must take any action, including the provi-

1 sion of notification to a consumer or other
2 person, in any procedure related to the dis-
3 puted accuracy of information in a con-
4 sumer's file, except that this clause does
5 not affect the applicability of any State law
6 in effect on the date of enactment of the
7 Consumer Reporting Reform Act of 1994;

8 “(iv) section 615(a), relating to the
9 duties of a person who takes any adverse
10 action with respect to a consumer on the
11 basis of information contained in a
12 consumer report; or

13 “(v) section 615(d), relating to the
14 duties of persons who use a consumer re-
15 port of a consumer in connection with any
16 credit or insurance transaction that is not
17 initiated by the consumer and that consists
18 of a firm offer of credit or insurance;

19 “(B) with respect to the exchange of infor-
20 mation among persons affiliated by common
21 ownership or common corporate control; or

22 “(C) with respect to the form and content
23 of any disclosure required to be made under
24 section 609(c).

1 “(2) DEFINITION OF ‘FIRM OFFER OF CRED-
2 IT’.—Notwithstanding the definition of the term
3 ‘firm offer of credit’ (or any equivalent term) under
4 the laws of any State, the definition of that term
5 contained in section 603(l) shall be construed to
6 apply in the enforcement and interpretation of the
7 laws of any State governing consumer reports.

8 “(3) FTC MODIFICATION PERMITTED.—If it
9 considers such action necessary for the protection of
10 consumers, the Federal Trade Commission may,
11 after consultation with each Federal agency referred
12 to in section 621(b) and with appropriate State reg-
13 ulatory and law enforcement agencies, promulgate
14 regulations in accordance with section 553 of title 5,
15 United States Code, to impose requirements—

16 “(A) that are more stringent than those
17 imposed under—

18 “(i) section 611, relating to the time
19 by which a consumer reporting agency
20 must take any action, including the provi-
21 sion of notification to a consumer or other
22 person, in any procedure related to the dis-
23 puted accuracy of information in a con-
24 sumer’s file;

1 “(ii) section 615(a), relating to the
2 duties of a person who takes any adverse
3 action with respect to a consumer on the
4 basis of information contained in a
5 consumer report; or

6 “(iii) section 615(d), relating to the
7 duties of persons who use a consumer re-
8 port of a consumer in connection with any
9 credit or insurance transaction that is not
10 initiated by the consumer and that consists
11 of a firm offer of credit or insurance; and

12 “(B) with respect to the form and content
13 of any disclosure required to be made under
14 section 609(c).

15 “(4) APPLICABILITY.—Notwithstanding any
16 other provision of this subsection, beginning 6 years
17 after the date of enactment of the Consumer Report-
18 ing Reform Act of 1994, a State may adopt a law,
19 or certify that the voters of the State have voted in
20 favor of a constitutional or other provision, which
21 states explicitly and by its terms that the law or pro-
22 vision is intended to supplement this Act, if the law
23 or provision gives greater protection to the consumer
24 than is provided under this Act.”.

1 **SEC. 117. FAIR DEBT COLLECTION PRACTICES.**

2 Section 807(11) of the Fair Debt Collection Practices
3 Act (15 U.S.C. 1692e(11)) is amended to read as follows:

4 “(11) Except as otherwise provided for commu-
5 nications to acquire location information under sec-
6 tion 804, the failure to disclose clearly in the initial
7 written communication with a consumer in connec-
8 tion with the collection of a debt or to obtain infor-
9 mation about a consumer, that the debt collector is
10 attempting to collect a debt and that any informa-
11 tion obtained will be used for that purpose.”.

12 **SEC. 118. EFFECTIVE DATES.**

13 (a) IN GENERAL.—Except as provided in subsection
14 (b), the amendments made by this title shall become effec-
15 tive 1 year after the date of enactment of this Act.

16 (b) EXCEPTIONS.—Notwithstanding the provisions of
17 subsection (a), the Federal Trade Commission may pre-
18 scribe regulations, as required by this title and the amend-
19 ments made by this title.

20 **TITLE II—CREDIT REPAIR**
21 **ORGANIZATIONS**

22 **SEC. 201. REGULATION OF CREDIT REPAIR ORGANIZA-**
23 **TIONS.**

24 Title IV of the Consumer Credit Protection Act is
25 amended to read as follows:

1 **“TITLE IV—CREDIT REPAIR**
2 **ORGANIZATIONS**

“Sec.

“401. Short title.

“402. Findings and purposes.

“403. Definitions.

“404. Prohibited practices by credit repair organizations.

“405. Disclosures.

“406. Credit repair organizations contracts.

“407. Right to cancel contract.

“408. Noncompliance with this title.

“409. Civil liability.

“410. Administrative enforcement.

3 **“SEC. 401. SHORT TITLE.**

4 “This title may be cited as the ‘Credit Repair Organi-
5 zations Act’.

6 **“SEC. 402. FINDINGS AND PURPOSES.**

7 “(a) FINDINGS.—The Congress finds that—

8 “(1) consumers have a vital interest in estab-
9 lishing and maintaining their creditworthiness and
10 credit standing in order to obtain and use credit. As
11 a result, consumers who have experienced credit
12 problems may seek assistance from credit repair or-
13 ganizations that offer to improve the credit standing
14 of such consumers; and

15 “(2) certain advertising and business practices
16 of some companies engaged in the business of credit
17 repair services have worked a financial hardship
18 upon consumers, particularly consumers who have
19 limited economic means and who are inexperienced
20 in credit matters.

1 “(b) PURPOSES.—The purposes of this title are—

2 “(1) to ensure that prospective buyers of the
3 services of credit repair organizations are provided
4 with the information necessary to make an informed
5 decision regarding the purchase of such services; and

6 “(2) to protect the public from unfair or decep-
7 tive advertising and business practices by credit re-
8 pair organizations.

9 **“SEC. 403. DEFINITIONS.**

10 “For purposes of this title, the following definitions
11 shall apply:

12 “(1) CONSUMER.—The term ‘consumer’ means
13 an individual.

14 “(2) CONSUMER CREDIT TRANSACTION.—The
15 term ‘consumer credit transaction’ means any trans-
16 action in which credit is offered or extended to an
17 individual for personal, family, or household pur-
18 poses.

19 “(3) CREDIT REPAIR ORGANIZATION.—The
20 term ‘credit repair organization’—

21 “(A) means a person who uses any instru-
22 mentality of interstate commerce or the mails
23 to sell, provide, or perform (or represent that
24 such person can or will sell, provide, or per-
25 form) any service, in return for the payment of

1 money or other valuable consideration, for the
2 express or implied purpose of—

3 “(i) improving a consumer’s credit
4 record, credit history, or credit rating;

5 “(ii) removing adverse credit informa-
6 tion that is accurate and not obsolete from
7 the consumer’s record, history, or rating;

8 “(iii) altering the consumer’s identi-
9 fication to prevent the display of the con-
10 sumer’s credit record, history, or rating for
11 the purpose of concealing adverse credit in-
12 formation that is accurate and not obso-
13 lete; or

14 “(iv) providing advice or assistance to
15 a consumer with regard to any activity or
16 service described in clause (i), (ii), or (iii);
17 and

18 “(B) does not include—

19 “(i) a nonprofit organization that is
20 exempt from taxation under section
21 501(c)(3) of the Internal Revenue Code of
22 1986; or

23 “(ii) an attorney at law who is a
24 member of the bar of the highest court of
25 any State or otherwise licensed under the

1 laws of any State, with respect to services
2 rendered that are within the scope of regu-
3 lations applicable to members of such bar
4 or such licensees.

5 “(4) CREDIT.—The term ‘credit’ has the same
6 meaning as in section 103 of the Truth in Lending
7 Act.

8 **“SEC. 404. PROHIBITED PRACTICES BY CREDIT REPAIR OR-**
9 **GANIZATIONS.**

10 “No credit repair organization, and no officer, em-
11 ployee, agent, or other person participating in the conduct
12 of the affairs of a credit repair organization, may—

13 “(1) receive any money or other valuable con-
14 sideration for the performance of any service that
15 the credit repair organization has agreed to perform
16 for a consumer before such service is fully per-
17 formed;

18 “(2) make any statement, or counsel or advise
19 a consumer to make any statement, that is untrue
20 or misleading (or that, upon the exercise of reason-
21 able care, should be known by the credit repair orga-
22 nization, officer, employee, agent, or other person to
23 be untrue or misleading) with respect to the consum-
24 er’s credit history, credit rating, or credit standing
25 to—

1 “(A) any consumer reporting agency (as
2 defined in section 603(f)); or

3 “(B) any person—

4 “(i) who has extended credit to the
5 consumer; or

6 “(ii) to whom the consumer has ap-
7 plied or is applying for an extension of
8 credit;

9 “(3) make any statement, or counsel or advise
10 a consumer to make any statement, the intended ef-
11 fect of which is to alter the consumer’s identification
12 to prevent the display of the consumer’s credit
13 record, history, or rating for the purpose of conceal-
14 ing adverse credit information that is accurate and
15 not obsolete to—

16 “(A) any consumer reporting agency; or

17 “(B) any person—

18 “(i) who has extended credit to the
19 consumer; or

20 “(ii) to whom the consumer has ap-
21 plied or is applying for an extension of
22 credit;

23 “(4) make or use any untrue or misleading rep-
24 resentation of the services of the credit repair orga-
25 nization; or

1 “(5) engage, directly or indirectly, in any act,
2 practice, or course of business that constitutes or re-
3 sults in the commission of, or an attempt to commit,
4 a fraud or deception on a person in connection with
5 the offer or sale of the services of the credit repair
6 organization.

7 **“SEC. 405. DISCLOSURES.**

8 “(a) DISCLOSURE REQUIRED.—Before any contract
9 or agreement between a consumer and a credit repair or-
10 ganization is executed, the credit repair organization shall
11 provide the consumer with the following written state-
12 ment:

13 **“‘Consumer Credit File Rights**
14 **Under State and Federal Law**

15 “‘You have a right to dispute inaccurate information
16 in your consumer report by contacting the credit bureau
17 directly. However, neither you nor any “credit repair”
18 company or credit repair organization has the right to
19 have accurate, current, and verifiable information removed
20 from your consumer report. The credit bureau must re-
21 move accurate, negative information from your report only
22 if it is over 7 years old. Bankruptcy information can be
23 reported for 10 years.

24 “‘You have a right to obtain a copy of your consumer
25 report from a credit bureau. You are entitled to receive

1 a free copy of your credit report if you have been turned
2 down for credit, employment, insurance, or a rental dwell-
3 ing because of information in your consumer report during
4 the preceding 60 days. You are also entitled to receive a
5 free copy of your credit report if you are unemployed and
6 intend to apply for employment during the next 60 days,
7 if you are a recipient of public welfare assistance, or if
8 you have been the victim of fraud. Otherwise, you may
9 be charged a reasonable fee. The credit bureau must pro-
10 vide someone to help you interpret the information in your
11 credit file.

12 “‘You have a right to sue a credit repair company
13 that violates the Credit Repair Organization Act. This law
14 prohibits deceptive practices by credit repair companies.

15 “‘You have the right to cancel your contract with any
16 credit repair organization for any reason not later than
17 3 business days from the date you signed it.

18 “‘Credit bureaus are required to follow reasonable
19 procedures to ensure that creditors report information ac-
20 curately. However, mistakes may occur.

21 “‘You may, on your own, notify a credit bureau in
22 writing that you dispute the accuracy of information in
23 your credit file. The credit bureau must then reinvestigate
24 and modify or remove inaccurate information. The credit
25 bureau may not charge any fee for this service. Any perti-

1 nent information and copies of all documents you have
2 concerning an error should be given to the credit bureau.

3 “If reinvestigation does not resolve the dispute to
4 your satisfaction, you may send a brief statement to the
5 credit bureau, to be kept in your file, explaining why you
6 think the record is inaccurate. The credit bureau must in-
7 clude your statement about disputed information with any
8 report it issues about you.

9 “The Federal Trade Commission regulates credit
10 bureaus and credit repair organizations. For more infor-
11 mation contact:

12 “Public Reference Branch
13 Federal Trade Commission
14 Washington, D.C. 20580.’.

15 “(b) SEPARATE STATEMENT REQUIREMENT.—The
16 written statement required under this section shall be pro-
17 vided as a document that is separate from any written
18 contract or other agreement between the credit repair or-
19 ganization and the consumer or any other written material
20 provided to the consumer.

21 “(c) RETENTION OF COMPLIANCE RECORDS.—

22 “(1) IN GENERAL.—The credit repair organiza-
23 tion shall maintain a copy of the statement signed
24 by the consumer acknowledging receipt of the state-
25 ment.

1 “(2) MAINTENANCE FOR 2 YEARS.—The copy
2 of the consumer’s statement shall be maintained in
3 the organization’s files for 2 years after the date on
4 which the statement is provided to the consumer.

5 **“SEC. 406. CREDIT REPAIR ORGANIZATIONS CONTRACTS.**

6 “(a) WRITTEN CONTRACTS REQUIRED.—A credit re-
7 pair organization may not provide services for a consumer
8 unless a written and dated contract for the purchase of
9 such services that meets the requirements of subsection
10 (b) has been signed by the consumer.

11 “(b) TERMS AND CONDITIONS OF CONTRACT.—No
12 contract referred to in subsection (a) meets the require-
13 ments of this subsection unless such contract includes the
14 following information (in writing):

15 “(1) The terms and conditions of payment, in-
16 cluding the total amount of all payments to be made
17 by the consumer to the credit repair organization or
18 to any other person.

19 “(2) A full and detailed description of the serv-
20 ices to be performed by the credit repair organiza-
21 tion for the consumer, including—

22 “(A) all guarantees and all promises of full
23 or partial refunds; and

24 “(B) an estimate of—

1 “(i) the date by which the perform-
2 ance of the services (to be performed by
3 the credit repair organization or any other
4 person) will be complete; or

5 “(ii) the length of the period nec-
6 essary to perform such services.

7 “(3) The credit repair organization’s name and
8 principal business address.

9 “(4) A conspicuous statement in boldface type,
10 in immediate proximity to the space reserved for the
11 consumer’s signature on the contract, which reads as
12 follows: ‘You may cancel this contract without pen-
13 alty or obligation at any time before midnight of the
14 third business day after the date on which you
15 signed the contract. See the attached notice of can-
16 cellation form for an explanation of this right.’.

17 **“SEC. 407. RIGHT TO CANCEL CONTRACT.**

18 “(a) IN GENERAL.—A consumer may cancel any con-
19 tract with a credit repair organization without penalty or
20 obligation by notifying the credit repair organization of
21 the consumer’s intention to do so at any time before mid-
22 night of the third business day which begins on the date
23 on which the contract or agreement between the consumer
24 and the credit repair organization is executed or would,

1 but for this subsection, become enforceable against the
2 parties.

3 “(b) CANCELLATION FORM AND OTHER INFORMA-
4 TION.—Each contract shall be accompanied by a form, in
5 duplicate, which has the heading ‘Notice of Cancellation’
6 and contains in boldface type the following statement:

7 “‘You may cancel this contract, without any
8 penalty or obligation, at any time before midnight of
9 the third business day which begins after the date
10 the contract is signed by you.

11 “‘If you cancel, any payment you made under
12 this contract will be returned before the end of the
13 10-day period beginning on the date the seller re-
14 ceives your cancellation notice.

15 “‘To cancel this contract, mail or deliver a
16 signed, dated copy of this cancellation notice, or any
17 other written notice to [insert name of credit repair
18 organization] at [insert address of credit repair or-
19 ganization] before midnight on [insert date].

20 “‘I hereby cancel this transaction.

21 “‘ _____ (purchaser’s signature)

22 “‘ _____ (date)’.

23 “(c) CONSUMER COPY OF CONTRACT REQUIRED.—
24 A consumer who enters into any contract with a credit
25 repair organization shall be given, by the organization—

1 “(1) a copy of the completed contract and the
2 disclosure statement required under section 405; and

3 “(2) a copy of any other document the credit
4 repair organization requires the consumer to sign,
5 at the time the contract or the other document is signed.

6 **“SEC. 408. NONCOMPLIANCE WITH THIS TITLE.**

7 “(a) CONSUMER WAIVERS INVALID.—Any waiver by
8 a consumer of any protection provided by or any right of
9 the consumer under this title—

10 “(1) shall be treated as void; and

11 “(2) may not be enforced by a Federal or State
12 court or any other person.

13 “(b) ATTEMPT TO OBTAIN WAIVER.—An attempt by
14 any credit repair organization to obtain a waiver from a
15 consumer of any protection provided by or any right of
16 the consumer under this title shall be treated as a violation
17 of this title.

18 “(c) CONTRACTS NOT IN COMPLIANCE.—A contract
19 for services that does not comply with the applicable provi-
20 sions of this title—

21 “(1) shall be treated as void; and

22 “(2) may not be enforced by a Federal or State
23 court or by any other person.

1 **“SEC. 409. CIVIL LIABILITY.**

2 “(a) LIABILITY ESTABLISHED.—A credit repair or-
3 ganization that fails to comply with any provision of this
4 title with respect to any person shall be liable to such per-
5 son in an amount equal to the sum of the amounts deter-
6 mined under each of the following paragraphs:

7 “(1) ACTUAL DAMAGES.—The greater of—

8 “(A) the amount of any actual damage
9 sustained by such person as a result of such
10 failure; or

11 “(B) any amount paid by the person to the
12 credit repair organization.

13 “(2) PUNITIVE DAMAGES.—

14 “(A) INDIVIDUAL ACTIONS.—In the case of
15 an action by an individual, such additional
16 amounts as the court may allow.

17 “(B) CLASS ACTIONS.—In the case of a
18 class action, the sum of—

19 “(i) the aggregate of the amount that
20 the court may allow for each named plain-
21 tiff; and

22 “(ii) the aggregate of the amount that
23 the court may allow for each other class
24 member, without regard to any minimum
25 individual recovery.

1 “(3) ATTORNEYS’ FEES.—In the case of a suc-
2 cessful action to enforce any liability under para-
3 graph (1) or (2), the costs of the action, together
4 with reasonable attorneys’ fees.

5 “(b) FACTORS TO BE CONSIDERED IN AWARDING
6 PUNITIVE DAMAGES.—In determining the amount of any
7 liability of any credit repair organization under subsection
8 (a)(2), the court shall consider, among other relevant fac-
9 tors—

10 “(1) the frequency and persistence of non-
11 compliance by the credit repair organization;

12 “(2) the nature of the noncompliance;

13 “(3) the extent to which such noncompliance
14 was intentional; and

15 “(4) in the case of any class action, the number
16 of consumers adversely affected.

17 “(c) JURISDICTION.—An action under this section
18 may be brought in any United States district court, or
19 in any other court of competent jurisdiction, before the
20 later of—

21 “(1) the end of the 2-year period beginning on
22 the date of the occurrence of the violation involved;
23 or

1 “(2) in any case in which a credit repair organi-
2 zation has materially and willfully misrepresented
3 any information that—

4 “(A) the credit repair organization is re-
5 quired, by any provision of this title, to disclose
6 to a consumer; and

7 “(B) is material to the establishment of
8 the credit repair organization’s liability to the
9 consumer under this section,

10 the end of the 2-year period beginning on the date
11 of the discovery by the consumer of the misrepresen-
12 tation.

13 **“SEC. 410. ADMINISTRATIVE ENFORCEMENT.**

14 “(a) IN GENERAL.—Compliance with the require-
15 ments imposed under this title with respect to credit repair
16 organizations shall be enforced under the Federal Trade
17 Commission Act by the Federal Trade Commission.

18 “(b) VIOLATIONS OF THIS TITLE TREATED AS VIO-
19 LATIONS OF FEDERAL TRADE COMMISSION ACT.—

20 “(1) IN GENERAL.—For the purpose of the ex-
21 ercise by the Federal Trade Commission of the Fed-
22 eral Trade Commission’s functions and powers
23 under the Federal Trade Commission Act, any viola-
24 tion of any requirement or prohibition imposed
25 under this title with respect to credit repair organi-

1 zations shall constitute an unfair or deceptive act or
2 practice in commerce in violation of section 5(a) of
3 the Federal Trade Commission Act.

4 “(2) ENFORCEMENT AUTHORITY UNDER OTHER
5 LAW.—All functions and powers of the Federal
6 Trade Commission under the Federal Trade Com-
7 mission Act shall be available to the Federal Trade
8 Commission to enforce compliance with this title by
9 any person subject to enforcement by the Federal
10 Trade Commission pursuant to this subsection, in-
11 cluding the power to enforce the provisions of this
12 title in the same manner as if the violation had been
13 a violation of any Federal Trade Commission trade
14 regulation rule, without regard to whether the credit
15 repair organization—

16 “(A) is engaged in commerce; or

17 “(B) meets any other jurisdictional tests in
18 the Federal Trade Commission Act.

19 “(c) STATE ENFORCEMENT OF TITLE.—

20 “(1) IN GENERAL.—The attorney general of
21 any State, or an official or agency designated under
22 the law of any State, may enforce compliance with
23 this title in Federal or State court.

24 “(2) CIVIL ENFORCEMENT ACTIONS.—A State
25 may bring a civil action in any Federal or State

1 court to enjoin any violation of this title and to re-
2 cover damages under this title for consumers who
3 reside in such State.”.

4 **SEC. 202. CREDIT WORTHINESS.**

5 It is the sense of the Senate that—

6 (a) individuals should generally be judged for
7 credit worthiness based on their own credit worthi-
8 ness and not on the zip code or neighborhood in
9 which they live; and

10 (b) the Federal Trade Commission after con-
11 sultation with the appropriate Federal banking agen-
12 cy, shall report to the Banking Committee within 6
13 months as to whether and how the location of the
14 residence of an applicant for unsecured credit is con-
15 sidered by many companies and financial institutions
16 in deciding whether an applicant should be granted
17 credit.

18 **TITLE III—FINANCIAL ACCOUNT-**
19 **ING STANDARDS BOARD**

20 **SEC. 301. FINDINGS.**

21 (a) The Financial Accounting Standards Board
22 (FASB) is currently considering changing the Generally
23 Accepted Accounting Principle relating to employee stock
24 option plans and stock purchase plans;

1 (b) FASB's proposal that would require the use of
2 complex mathematical formulas to estimate a value for
3 employee stock options at the date of grant and requires
4 those estimated values be deducted from earnings on com-
5 panies' income statements;

6 (c) FASB has just completed an extended review of
7 its proposal which included a public comment period, nu-
8 merous field hearings and a field test;

9 (d) FASB's proposal has generated opposition which
10 is unprecedented in both its intensity and universality;

11 (e) The accounting profession, as represented by the
12 American Institute of Certified Public Accountants and
13 each of the 6 largest national accounting firms, oppose
14 FASB's proposal;

15 (f) Individual investors, as represented by the United
16 Shareholders Association, oppose FASB's proposal;

17 (g) Institutional investors and pension funds, as rep-
18 resented by the Council of Institutional Investors, oppose
19 FASB's proposal;

20 (h) Both the Secretary of the Treasury and the Sec-
21 retary of Commerce have raised serious concerns about
22 FASB's proposal: "Most troubling is the possibility that
23 implementation of the proposal might result in more vola-
24 tile and less accurate and consistent financial statements

1 because of the extreme difficulty of valuing long-term,
2 non-marketable, forfeitable stock options”;

3 (i) There is a broad consensus among those who have
4 studied the FASB proposal it will diminish and not im-
5 prove either the integrity or comparability of information
6 available to investors;

7 (j) The National economic policy implications of
8 FASB’s proposal are substantial because small, growth-
9 oriented companies often lack capital and therefore regu-
10 larly rely on broad-based employee stock options to attract
11 employees and large business provide employee stock op-
12 tions and broad-based employee stock purchase plans to
13 help motivate their employees and improve productivity;
14 and

15 (k) the FASB proposal will diminish the ability of
16 small companies to raise capital and attract employees and
17 it will curtail, not enhance broad-based employee owner-
18 ship.

19 **SEC. 302. NEW ACCOUNTING TREATMENT OF EMPLOYEE**
20 **STOCK OPTIONS AND PURCHASE PLANS.**

21 It is the sense of the Senate that—

22 (1) the new accounting treatment of employee
23 stock options and employee stock purchase plans,
24 proposed by the Financial Accounting Standards
25 Board, will have grave economic consequences par-

1 ticularly for businesses in new-growth sectors which
2 rely heavily on employee entrepreneurship;

3 (2) the new accounting treatment of employee
4 stock options and employee stock purchase plans,
5 proposed by the Financial Accounting Standards
6 Board, will diminish rather than expand broad-based
7 employee stock option plans; and

8 (3) the Financial Accounting Standards Board
9 should not at this time change the current generally
10 accepted accounting treatment of stock options and
11 stock purchase plans contained in Accounting Prin-
12 ciples Board Decision 25.

13 **SEC. 303. STATUS.**

14 It is the sense of the Senate that—

15 (1) the status of the Financial Accounting
16 Standards Board as a private body of independent
17 accounting experts should be respected and safe-
18 guarded; and

19 (2) the Congress should not impair the objectiv-
20 ity or integrity of the Financial Accounting Stand-
21 ards Board's decisionmaking process by legislating
22 accounting rules.

1 **TITLE IV—MISCELLANEOUS**
2 **PROVISION**

3 **SEC. 401. SECURITIES AND EXCHANGE COMMISSION, SE-**
4 **ATTLE DISTRICT OFFICE.**

5 It is the sense of the Senate that the Securities and
6 Exchange Commission district office located in Seattle,
7 Washington shall not be closed, nor its services, oper-
8 ations, or staff be reduced from the levels in effect on Jan-
9 uary 1, 1994. None of the operations of the Seattle office
10 shall be transferred to another office of the Securities and
11 Exchange Commission.

 Passed the Senate May 4 (legislative day, May 2),
1994.

Attest:

Secretary.

S 783 ES—2

S 783 ES—3

S 783 ES—4

S 783 ES—5

S 783 ES—6

S 783 ES—7

S 783 ES—8

S 783 ES—9

S 783 ES—10